

**Application No.**  
**Z-16-10-13**  
**(Text Amendment to LDRs)**

**Applicant**  
**Charlotte County Board of County**  
**Commissioners /**  
**New Section 3-9-76.1: Watercraft**  
**Abandoned, Derelict or Hazard to**  
**Navigation**

**Quasi-Judicial**

**Countywide**



## MEMORANDUM

DATE: October 13, 2016

TO: Honorable Board of County Commissioners  
Planning and Zoning Board

FROM: Jie Shao, Planner, Principal

RE: Z-16-10-13, New Section 3-9-76.1: Watercraft Abandoned, Derelict or Hazard to Navigation

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**Staff Recommendation:**

Staff is requesting the Charlotte County Board of County Commissioners (Board) approve Petition Z-16-10-13, the proposed new Section 3-9-76.1: Watercraft Abandoned, Derelict or Hazard to Navigation.

**The Planning and Zoning Board proposed recommendations:**

On November 14, 2016, the Planning and Zoning (P&Z) Board will recommend approval/denial of Petition Z-16-10-13, the proposed Section 3-9-76.1: Watercraft Abandoned, Derelict or Hazard to Navigation.

**Analysis:**

In 2014, during Phase I of the revisions to the County's Land Development Regulations, in order to simplify special regulations dealing with abandoned vehicles and watercraft, staff combined several old sections which include Section 3-9-61, Abandoned Vehicles, Section 3-9-62, Watercraft Abandoned, Derelict or a Hazard to Navigation, Section 3-9-81, Junkyards and automobile Wrecking Yards and Section 3-9-82.1, Junk and Junkyard Conditions Prohibited, through the creation of new Section 3-9-76: Junklike Conditions Prohibited.

**COMMUNITY DEVELOPMENT DEPARTMENT**

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However, during the implementation of the adopted new Section 3-9-76, staff realized that the special regulations only regulate abandoned vehicles and watercraft on any lot or within the public right-of-way, but not on public waters. Therefore, Community Development Department staff have been working with the County attorneys and staff from the Park and Natural Resources Division to clarify and modify the old regulations regarding “watercraft abandoned, derelict or hazard to navigation”; new Section 3-9-76.1: Watercraft Abandoned, Derelict or Hazard to Navigation is proposed for the Board of County Commissioners to consider. The proposed new section will:

- Govern the discovery and disposition of vessels that are abandoned, derelict or a hazard to navigation; and
- Provide for enforcement and penalties.

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Land Development Regulations

Chapter 3-9. Zoning

Article III. Special Regulations

Sec. 3-9-76.1. - Watercraft Abandoned, Derelict or a Hazard to Navigation

**Sec. 3-9-76.1. Watercraft Abandoned, Derelict or a Hazard to Navigation**

- (a) All watercraft which have been disposed of on public property including public waters in a wrecked, inoperative or partially dismantled condition, or which are inoperative or unregistered or which appear to be in a state of decay or abandonment, including any craft, regardless of condition, which are an interference to navigation or a danger or threat of danger to the environment or the safety, health and welfare of the public, shall be prohibited on any waterway, shore or public property including submerged lands unless contained in an enclosed building or unless such watercraft are under repair and located in a district which permits the repair of watercraft.
- (b) Upon discovery of abandoned watercraft in violation of this Section, the County Administrator or its designee, or any law enforcement agency of the County, shall follow the procedures set forth at Exhibit "A", attached, which procedures may from time to time be altered by resolution.
- (c) Whoever opposes, obstructs, or resists any person authorized by subsection (b) upon conviction is guilty of a misdemeanor of the second degree, punishable as provided in F.S. Section 775.082 or Section 775.083.
- (d) Any person authorized by subsection (b) is immune from prosecution, civil or criminal, for reasonable, good faith entering upon real property while in the discharge of duties imposed by this section.

## **EXHIBIT A**

### **Abandoned, Derelict or Hazardous Watercraft: Procedures<sup>1</sup>**

For purposes of this Exhibit, "abandoned" vessel includes also derelict vessels and those which are a hazard or interference to navigation. Whenever any agent authorized by 3-9-76.1 (b) ascertains that a vessel that is abandoned, derelict or a hazard to navigation is present on public property or the public waters of Charlotte County, such agent shall cause a notice to be placed upon such article in substantially the as follows:

NOTICE TO THE OWNER(S) AND ALL PERSONS WITH A LEGAL INTEREST IN THE ATTACHED PROPERTY. This property, to wit: [setting forth brief description] is unlawfully upon public property known as [setting forth brief description of location] and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: [setting forth the date of posting of notice], signed: [setting forth name, title, address, and telephone number of law enforcement officer].

Such notice shall be not less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the agent shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the agent, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a vessel as defined in s. 327.02, the agent shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vessel as provided in s. 328.15(1). On receipt of this information, the agent shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any. If, at the end of five days after posting the notice and mailing such notice, if required, the owner(s) or any person with a legal interest in the abandoned vessel has not removed the vessel from public property or shown reasonable cause for failure to do so, the following shall apply:

1. For an abandoned vessel, the agent may retain the vessel for its own use or for use by the State or unit of local government, trade such property to another unit of local government or State agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.
2. If the agent elects to retain the vessel for use by the unit of government, donate it to a charitable organization, surrender such vessel to the finder, sell the vessel, or trade the vessel to another unit of local government or State agency, notice of such election shall be given by an advertisement published once a week for two consecutive weeks in a newspaper of general circulation in the county where the vessel was found if the value of the property is more than \$100. If the value of the vessel is \$100 or less, notice shall be given by posting a description of the vessel at the law enforcement agency where the property was turned in. The notice must be posted for not less than two consecutive weeks in a public place designated by the agent. The notice must describe the vessel in a manner reasonably adequate to permit the rightful owner of the vessel to claim it.
3. If the agent elects to sell the vessel, it must do so at public sale by competitive bidding. Notice of the time and place of the sale shall be given by an advertisement of the sale published once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The notice shall include a statement that the sale shall be subject to

any and all liens. The sale must be held at the nearest suitable place to that where the abandoned vessel is held or stored. The advertisement must include a description of the vessel and the time and place of the sale. The sale may take place no earlier than ten days after the final publication. If there is no newspaper of general circulation in the county where the sale is to be held, the advertisement shall be posted at the door of the courthouse and at three other public places in the county at least ten days prior to sale. Notice of the agent's intended disposition shall describe the vessel in a manner reasonably adequate to permit the rightful owner of the vessel to identify it. Note that if the vessel is a "lost" vessel, i.e., in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner, such vessel must be retained and advertised for 90 days before sale.

4. If the vessel is sold at public sale pursuant to subparagraph 3, the agency shall deduct from the proceeds the costs of transportation, storage, and publication of notice, and any balance of proceeds shall be deposited into an interest-bearing account not later than 30 days after the date of the sale and held there for one year. The agent shall provide a bill of sale clearly stating that the sale is subject to any and all liens. The rightful owner of the vessel may claim the balance of the proceeds within 1 year from the date of the above stated deposit by making application to the agency. If no rightful owner comes forward with a claim to the vessel within the designated year, the balance of the proceeds shall be deposited into the State School Fund.
5. The owner of any abandoned vessel who, after notice as provided in this section, does not remove such property within the specified period shall be liable to the agent for all costs of removal, storage, and destruction of such property, less any salvage value obtained by disposal of the property. Upon final disposition of the property, agent shall notify the owner, if known, of the amount owed. In the case of an abandoned vessel or motor vehicle, any person who neglects or refuses to pay such amount is not entitled to be issued a certificate of registration for such vessel or motor vehicle, or any other vessel or motor vehicle, until such costs have been paid.

The agent shall supply the Department of Highway Safety and Motor Vehicles with a list of persons whose vessel registration privileges or whose motor vehicle privileges have been revoked under this subsection. Neither the department nor any other person acting as agent thereof shall issue a certificate of registration to a person whose vessel or motor vehicle registration privileges have been revoked, as provided by this subsection, until such costs have been paid.

The rightful owner shall further be liable for the agent's costs for transportation and storage of the abandoned vessel and the agent's cost for publication of notice of disposition of the vessel. If the rightful owner does not pay such costs within 30 days of making claim to the vessel, title to the vessel shall vest in the law enforcement agency.

**Notes:**

1. IMPORTANT: Note that if the vessel is a "lost" vessel, i.e., in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner, such vessel must be retained and advertised for 90 days before sale.